

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
BISMARCK, NORTH DAKOTA**

June 28, 2013

PI-13-17

TO: Directors, County Social Service Boards
Regional Supervisors
Division of Juvenile Services
Tribal Social Services

FROM: Dean Sturn, Administrator, Foster Care Program

SUBJECT: Transfer of a Child to a Tribal Agency

PROGRAMS: IV-E Foster Care Eligibility, 447-10-40-15-05

EFFECTIVE: **Immediately**

RETENTION: Until Manualized

Federal regulation, 45 CFR 1356.67 mandates that each state with a Title IV-E plan approved under section 471 of the Social Security Act must establish and maintain procedures, in consultation with Indian tribes, for the transfer of responsibility for the placement and care of a child to a tribal Title IV-E agency, or an Indian tribe with a Title IV-E Agreement. The transfer of a child's case should not affect the child's eligibility, receipt of services, or payments under Title IV-E or the Medical Assistance program operated under Title XIX.

The tribe of an Indian child has the right to intervene at any time in a child custody proceeding in State court. Upon the transfer of a child from state court to tribal court, county agencies should follow current procedures or develop procedures, in consultation with the tribe, that ensure the following:

1. Title IV-E is established at the time of transfer, if it has not already been determined.
2. Essential documents and information necessary to continue a child's eligibility under Title IV-E and Medicaid programs under Title XIX are provided in a timely manner to the tribal Title IV-E agency, or an Indian tribe with a title IV-E Agreement, including but not limited to:

- a. All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts to prevent removal and return the child home were made, and that reasonable efforts have been made to place siblings in the same home or provide for frequent visitation or other ongoing interaction between siblings when it is not possible to place them together;
- b. Other documentation the county social service agency has that relates to the child's Title IV-E eligibility;
- c. Information and documentation available to the county social service agency regarding the child's eligibility or potential eligibility for other federal benefits;
- d. The case plan, including the child's health and education records; and,
- e. Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

If you have any questions, please feel free to contact me. Thanks.